

ATTACHMENT TO RESOLUTION R1-2004-0011

**BASIN PLAN AMENDMENT: LANGUAGE AUTHORIZING THE INCLUSION OF
COMPLIANCE SCHEDULES IN NPDES PERMITS**

(to be added to the *Water Quality Control Board, North Coast Region*, Chapters 3 and 4)

Add to end of Chapter 3, “Water Quality Objectives”, of the *Water Quality Control Plan*:

COMPLIANCE WITH WATER QUALITY OBJECTIVES

*“The Regional Water Board recognizes that immediate compliance with new, revised or newly interpreted water quality standards adopted by the Regional Water Board, the State Water Resources Control Board, or the U.S. Environmental Protection Agency, may not be feasible in all circumstances. Where the Regional Water Board determines that it is infeasible for an existing discharger, * (including existing non-NPDES dischargers, that under new interpretation of law are newly required to comply immediately with effluent limitations or, where appropriate, receiving water limitations, specified to implement such standards), compliance shall be achieved in the shortest practicable period of time, taking into account the factors identified in Chapter 4 for the implementation of compliance schedules. All compliance schedules will be limited to the time frames set out in Chapter 4.*

**“Existing discharger” means any discharger that is not a new discharger. An existing discharger generally includes an increasing discharger (i.e., an existing facility with treatment systems in place for its current discharge that is or will be expanding, upgrading, or modifying its existing permitted discharge after [\[insert effective date of amendment\]](#).*

This provision authorizes compliance schedules for standards that are adopted, revised or newly interpreted after the effective date of this amendment (on the date approved by U.S. Environmental Protection Agency, pursuant to Federal Clean Water Act Section 303(c)(3)).”

This provision applies to all applicants for compliance schedules in any waste discharge requirements, NPDES and non-NPDES.

Add to Chapter 4, “Implementation Plans”, of the *Water Quality Control Plan* after the section titled “Waste Discharge Prohibitions”:

COMPLIANCE SCHEDULES

*The Regional Water Board may establish a compliance schedule in a discharger’s Waste Discharge Requirements (NPDES or non-NPDES) permit where: 1) the Regional Water Board determines that it is infeasible for an existing discharger, * to achieve immediate compliance with an effluent specified to implement a new, revised or newly interpreted water quality standard, whether numeric or narrative, adopted by the Regional Water Board, State Water Resources Control Board, or the U.S. Environmental Protection Agency; and where; 2) a discharger previously operating under a non-NPDES permit, who under new interpretation of law, is newly required to comply with NPDES permitting requirements and where the Regional Water Board determines that it is infeasible to achieve immediate compliance with a newly imposed effluent limitation.*

The compliance schedule shall include a time schedule for completing specific actions (including interim effluent limits) that demonstrate reasonable progress toward attainment of the effluent limitations and, thereby, water quality standards. The schedule shall contain interim limits, a final compliance date, based on the shortest practicable time (determined by the Regional Water Board at a public hearing after considering the factors identified below) required to achieve compliance. Compliance shall be achieved no later than five years from the date of the adoption, revision, or reinterpretation of the new objective. A permittee can apply for up to a five-year extension, but only where the conditions of the compliance schedule have been fully met, and sufficient progress toward achieving the standard has been documented. Additional time constraints and conditions may be applicable to permits subject to the Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California (Phase 1 of the Inland Surface Waters Plan and the Enclosed Bays and Estuaries Plan)” (CTR-SIP).

A compliance schedule in an adopted TMDL Implementation Plan is expected to be as short as practicable, and if different from the compliance schedule policy outlined in this provision, will take precedence.

To document the need for and justify the duration of any such compliance schedule, a discharger must submit the following information, at a minimum:

- (1) A written request, and demonstration, with supporting data and analysis, that it is infeasible to achieve immediate compliance with a newly adopted, newly revised or reinterpreted effluent limitation or receiving water limitation;*
- (2) Documentation required to meet the eligibility criteria set out above;*
- (3) Documentation that diligent efforts have been made to quantify pollutant levels in the discharge and the sources of the pollutant(s) in the waste stream;*
- (4) Documentation of source control efforts currently underway or completed, including compliance with any pollution prevention programs that have been established;*
- (5) A proposed schedule for additional source control measures or waste treatment (i.e. facility upgrades);*
- (6) The highest discharge quality that can reasonably be achieved until final compliance is attained;*
- (7) A demonstration that the proposed schedule is as short as practicable, taking into account economic, technical and other relevant factors; and;*
- (8) Additional information and analyses, to be determined by the Regional Water Board on a case-by-case basis.*

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(9) Data demonstrating current treatment facility performance, to compare against existing permit effluent limits, as necessary to determine an appropriate interim limit.

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